

because complainant presented no evidence of collusion or ex parte communication. The record, in fact, showed that the district judge allowed the filing of the amended complaint and denied the government's motion to dismiss the original complaint as moot.

In the second complaint, complainant alleged that the collusion and ex parte communication still existed and were controlling the litigation of her case and preventing an impartial adjudication of her claims. In support of the allegation, complainant claimed that referral of the government's motion to dismiss the original complaint to the district judge established that the judge intended to dismiss the case without requiring a response to the amended complaint. Complainant further alleged that the judge's order granting, in part, the government's motion for an extension of time to answer complainant's amended complaint incorrectly stated that the extension was requested prior to expiration of the time for answering complainant's amended complaint. Complainant also alleged that government attorneys were tampering with her computer and placing threats on it and that they were using information retrieved from her computer to their advantage in complainant's pending litigation.

In this third complaint and supplement, complainant makes many of the same allegations made in the two previous complaints. She further alleges that:

- documents she has sent to the court have not been filed in her case;
- that the district judge intends to dismiss her case;
- that an order will be filed in the district court stating that complainant is a vexatious litigant and barring her from filing future civil actions;
- that the government's attorneys have told her she will suffer consequences for the filing of this judicial complaint;
- that the government's attorneys continue to tamper with her computer and her smart phone;
- that the government's attorneys are planting documents in unrelated cases on her computer for her to see as a way to threaten her; and
- that the government's attorneys are accessing pleadings she is working on, and then filing responses with the court before she has an opportunity to actually file her pleading.

The Judicial Conduct and Disability Act provides a means to review claims relating to a judge's conduct; it does not permit

review of a judge's decisions. Allegations that are "[d]irectly related to the merits of a decision or procedural ruling" cannot be raised through a judicial misconduct complaint. 28 U.S.C. § 352(b)(1)(A)(ii). Allowing judicial decisions to be challenged through misconduct proceedings "would raise serious constitutional issues regarding judicial independence under Article III of the Constitution." In re Memorandum of Decision of Judicial Conference Committee on Judicial Conduct and Disability, 517 F.3d 558, 561 (U.S. Jud. Conf. 2008).

Misconduct may be based upon a showing that the judge's ruling was motivated by racial or ethnic bias or the product of conspiracy or collusion, but the claim must be supported by sufficient evidence to raise an inference that misconduct has occurred and cannot be based on mere speculation. See 28 U.S.C. § 352(b)(1)(A)(iii); Rule 3(h)(3)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings; In re Doe, 2 F.3d 308 (8th Cir. 1993) (judicial complaint process may not be used to pursue speculative claims).

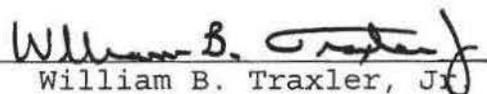
As was the case with her prior judicial complaints, complainant's allegations of collusion and ex parte communication are without the factual support required to state a claim of judicial misconduct. The documents complainant alleges have not been filed by the court are, in fact, on the docket for her case filed on the dates she states the documents

were received by the court. Further, a review of the docket reveals that complainant has been granted multiple extensions of time by the district judge in order to respond to the government's motions to dismiss. Although complainant states that it is her belief that the judge will dismiss her case before she has an opportunity to respond, the district court docket shows that complainant's case is still pending. Complainant's concern that the judge will dismiss her case is not evidence of misconduct. Finally, complainant's allegations that government attorneys are tampering with her computer and smart phone, threatening her, and obtaining information to use against her in litigation do not give rise to an inference of judicial misconduct.

Accordingly, this judicial complaint is dismissed as frivolous. 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant is advised that repetitive filing of frivolous judicial complaints will lead to imposition of restrictions against future filings. Rule 10, Rules for Judicial-Conduct and Judicial-Disability Proceedings.

IT IS SO ORDERED.


William B. Traxler, Jr.
Chief Judge